



**THE CITY OF NEW YORK  
LAW DEPARTMENT**

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November 1, 2013

**BY ECF and HAND DELIVERY**

Honorable Kiyo A. Matsumoto  
United States District Judge  
Eastern District of New York  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Peter Boda v. City of New York, et al., 11-CV-0028 (KAM)(SMG)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendants City of New York and Detective John Phelan (hereinafter “City defendants”) in the above-referenced matter. The City defendants write to respectfully request that the Court deem their motion for summary judgment fully briefed.

By way of background, Your Honor held a telephone conference on June 12, 2013 with all of the parties on the line to discuss the anticipated summary judgment motions in this matter. A briefing schedule was ordered as follows: both the City defendants and defendant B.M. shall serve their respective motions on plaintiff by July 12, 2013, plaintiff shall serve his oppositions to both sets of defendants’ motions by October 15, 2013, and both sets of defendants’ replies shall be served on plaintiff by November 1, 2013. On July 5, 2013, the City defendants served plaintiff with a Notice of Motion, a 56.1 Statement of Undisputed Facts, a Declaration, a 56.2 Notice to the *pro se* plaintiff and a Memorandum of Law.<sup>1</sup> To date, plaintiff

<sup>1</sup> The motion was delivered to plaintiff at the address listed on the civil docket sheet, George Motchan Detention Center, 15-15 Hazen Street, East Elmhurst, New York 11370. Upon information and belief, plaintiff was released from custody sometime after he was served with (and received) the motion. The return address listed by plaintiff in his August 21, 2013 letter to the Court is 25-35 33<sup>rd</sup> Street, Astoria, New York 11102. A copy of this letter will be sent to plaintiff at the Astoria address.

has not served an opposition to the City defendants' motion. Accordingly, the City Defendants respectfully request their motion for summary judgment be deemed fully briefed. The City defendants await a ruling from the Court on this application before they file their motion on ECF.

Respectfully submitted,

/s/

Matthew J. Modaffer  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: Peter Boda (By First Class Mail)  
Plaintiff *pro se*  
25-35 33<sup>rd</sup> Street – garage level  
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